

YODER, AINLAY, ULMER & BUCKINGHAM
LAWYERS

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GEORGE E. BUCKINGHAM
GREGORY A. HARTZLER
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PATRICK F. O'LEARY
CRAIG M. BUCHE
MICHAEL F. DeBONI
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BRYANT C. HANEY
ALAN L. WELDY

130 NORTH MAIN STREET
P.O. BOX 575
GOSHEN, INDIANA 46526-0575
(219) 533-1171
TELECOPIER NUMBER (219) 534-4174

OF COUNSEL
FRANK E. YODER
CHARLES W. AINLAY
GEORGE E. PEPPLER
1907-1963

December 5, 1991

Ms. G. Marie Watts
Superfund Program Management Branch
5HSM-TUB-7
United States Environmental Protection Agency
77 West Jackson Boulevard
Chicago, IL 60604

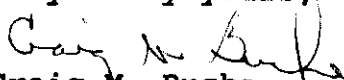
VIA FEDERAL EXPRESS

RE: Request for Information for the Himco Dump Site in
Elkhart, Indiana

Dear Ms. Watts:

Please find enclosed the Response of Goshen Iron & Metal, Inc. to EPA Request for Information Pursuant to Section 104(e) of CERCLA and Section 3007 of RCRA, for the Himco Dump Site, located in Elkhart, Indiana hereinafter referred to as the "Site." After reviewing this Response, I believe that you should come to the same conclusion as I have that Goshen Iron & Metal, Inc. has no connection with and is not a Potentially Responsible Party in connection with the Himco Dump Site located in Elkhart, Indiana. I have also enclosed for your reference a Request for Information pursuant to the Freedom of Information Act concerning this matter which I have also forwarded to the Freedom of Information Act Officer of the EPA.

Very truly yours,


Craig M. Buche

CMB/kjt
enclosure
cc: Goshen Iron & Metal, Inc.

Response of Goshen Iron & Metal, Inc. to EPA Request for Information pursuant to Section 104(e) of CERCLA and Section 3007 of RCRA, for the Himco Dump site, located in Elkhart, Indiana hereinafter referred to as "the Site"

COMES NOW Goshen Iron & Metal, Inc. and responds to the EPA request for information pursuant to Section 104(e) of CERCLA and Section 3007 of RCRA, for the Himco Dump site, located in Elkhart, Indiana hereinafter referred to as "the Site" as follows:

1. Have you or any other person working with you or on your behalf ever accepted waste materials or hazardous substances for transportation from Skyline Corporation and/or to the Site? If the answer to this question is anything but an unequivocal no, identify:

ANSWER: No. Please see the affidavits and notarized statements of current and former employees of Goshen Iron & Metal, Inc. attached hereto as Exhibits A, B, C, D, E, and F which establish that Goshen Iron & Metal, Inc. had no connection whatsoever with the old Himco site. Please refer also to the affidavit attached hereto as Exhibit G of Charles H. Himes, Jr., President of Himco Waste-Away Services, Inc., which conclusively establishes that Goshen Iron & Metal, Inc. did not do any business with the old Himco site.

a) the persons from whom you or such other persons accepted waste materials, including hazardous substances for transport;

ANSWER: Not applicable.

b) every date on which waste materials were so accepted or transported;

ANSWER: Not applicable.

c) for each transaction, the nature of the materials including the chemical content, characteristics, physical state (e.g., solid, liquid), and the process for which the substance was used or the process which generated the substance;

ANSWER: Not applicable.

d) the owner of the materials so accepted or transported;

ANSWER: Not applicable.

e) the quantity of the materials involved (weight or volume) in each transaction and the total quantity for all transactions;

ANSWER: Not applicable.

f) all tests or analyses and analytical results concerning such material;

ANSWER: Not applicable.

g) the precise location to which each material actually was transported;

ANSWER: Not applicable.

h) the person(s) who selected the Site as the place to which hazardous substances were to be transported;

ANSWER: Not applicable.

i) the amount paid in connection with each transaction, the method of payment, and the identity of the person from whom payment was received;

ANSWER: Not applicable.

j) where the person identified in "i" above, intended to have such materials transported and all evidence of

this intent;

ANSWER: Not applicable.

k) whether the materials involved in each transaction were transshipped through, or were stored or held at, any intermediate Site prior to final treatment or disposal;

ANSWER: Not applicable.

l) what was done to the materials once they were brought to the Site;

ANSWER: Not applicable.

m) the final disposition of each of the materials involved in such transactions;

ANSWER: Not applicable.

n) the measures taken by you to determine the actual methods, means, and site of treatment or disposal of the material involved in each transaction;

ANSWER: Not applicable.

o) the type and number of containers in which the materials were contained when they were accepted for transport, and, subsequently until they were deposited at the Site and all markings on such containers.

ANSWER: Not applicable.

2. How long has Goshen Iron & Metal been employed by Skyline Corporation (please give answer from date, month, year to date, month, year)?

ANSWER: Goshen Iron & Metal, Inc. has never been "employed" by Skyline Corporation; any services performed by Goshen Iron & Metal, Inc. for Skyline Corporation have been on the basis

of an independent contractor relationship. Goshen Iron & Metal, Inc. began trash hauling services for Skyline Corporation in January of 1969. These trash hauling services have no relationship whatsoever with the old Himco site, and none of the trash was ever transported to or deposited at the old Himco site by Goshen Iron & Metal, Inc.

Dated this 4th day of ^{December,} ~~November~~, 1991.

GOSHEN IRON & METAL, INC.

By Jan D. Whitehead
Jan D. Whitehead
Executive Vice-President

EXHIBIT A

STATE OF INDIANA)
)
COUNTY OF ELKHART)

AFFIDAVIT OF JAN D. WHITEHEAD

COMES NOW Jan D. Whitehead, and after first being duly sworn upon his oath, states as follows:

1. That he is a resident of Elkhart County, State of Indiana.

2. That he is the Executive Vice-President of Goshen Iron & Metal, Inc. which has its offices at 409 W. Lincoln Avenue, Goshen, Indiana 46526 with telephone number (219) 533-3158.

3. That Goshen Iron & Metal has never accepted any waste materials or hazardous substances of any kind for transportation from Skyline Corporation nor from any of its other customers to the old Himco landfill site located at the corner of C.R. 10 and Nappanee Street in Elkhart, Indiana and has never delivered to nor deposited at the old Himco site any waste materials or hazardous substances for itself or for any of its customers.

4. That a diligent records search has been completed by Goshen Iron & Metal, Inc. and that there has been a diligent interviewing process with respect to present and former employees who may have knowledge of the operations, hazardous substance use, storage, treatment, releases, spills, disposal, or other handling practices of Goshen Iron & Metal, Inc. between 1951 to the present date. That based upon such investigation, Goshen Iron & Metal, Inc. never did any business with the old Himco site and has no

connection whatsoever with the old Himco site.

5. That the records of Goshen Iron & Metal, Inc. reveal no connection nor business relationship whatsoever with the old Himco site.

6. That attached hereto as Exhibits B, C, D, E, and F are notarized statements from current and former employees of Goshen Iron & Metal, Inc. which substantiate the fact that Goshen Iron & Metal, Inc. has never transported nor deposited waste materials of any kind from Skyline Corporation or any other account of Goshen Iron & Metal, Inc. at the old Himco site.

7. That attached hereto as Exhibit G is an affidavit from Charles H. Himes, Jr., President of Himco Waste-Away Services, Inc., which conclusively establishes that Goshen Iron & Metal, Inc. has never done any business with the old Himco site.

Further, affiant sayeth not.

Jan D. Whitehead
Jan D. Whitehead, Executive Vice-
President of Goshen Iron & Metal, Inc.

STATE OF INDIANA)
)SS:
COUNTY OF ELKHART)

Before me, a Notary Public in and for said County and State, personally appeared the above named Jan D. Whitehead, Executive Vice-President of Goshen Iron & Metal, Inc., and acknowledged the execution of the foregoing Affidavit of Jan D. Whitehead this 4th day of December, 1991.

WITNESS my hand and notarial seal.

Craig M. Burke
Craig M. Burke Notary Public
Residing in Elkhart County, Indiana

My Commission Expires:

Jan. 12, 1994

EXHIBIT B



INDUSTRIAL SCRAP • WASTE SERVICE •
INDUSTRIAL GASES • WELDING SUPPLIES

409-411 WEST LINCOLN AVE. — GOSHEN, INDIANA 46526

PHONE 219-533-3158 • FAX 219-534-2518

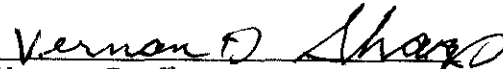


October 29, 1991

To Whom It May Concern:

I, Vernon Sharp, have worked for Goshen Iron and Metal since September, 1957. To the best of my knowledge, I have never dumped waste from Skyline or any other account at the older Himco Landfill site.

I am a truck driver for Goshen Iron and Metal, Inc. My duties include picking up trash at various accounts and dumping them at the Elkhart County Landfill.


Vernon D. Sharp

2005 Homeacre Drive
Goshen, Indiana 46526
219-533-5126


DIANA K. HITE
NOTARY PUBLIC STATE OF INDIANA
ELKHART COUNTY
MY COMMISSION EXP. NOV. 15, 1992

EXHIBIT C



INDUSTRIAL SCRAP • WASTE SERVICE •
INDUSTRIAL GASES • WELDING SUPPLIES

400-411 WEST LINCOLN AVE. — GOSHEN, INDIANA 46526
PHONE 219-533-3158 • FAX 219-534-2518

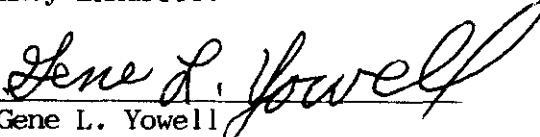


October 29, 1991

To Whom It May Concern:

I, Gene Yowell, have worked for Goshen Iron and Metal since July, 1974. To the best of my knowledge, I have never dumped waste from Skyline or any other account at the older Himco Landfill site.

I am a truck driver for Goshen Iron and Metal, Inc. My duties include picking up trash at various accounts and dumping them at the Elkhart County Landfill.


Gene L. Yowell

808 Emerson Street
Goshen, Indiana 46526
219-533-7220


DIANA K. HITE
NOTARY PUBLIC STATE OF INDIANA
ELKHART COUNTY
MY COMMISSION EXP. NOV. 15, 1992



INDUSTRIAL SCRAP • WASTE SERVICE •
INDUSTRIAL GASES • WELDING SUPPLIES

400-411 WEST LINCOLN AVE. —GOSHEN, INDIANA 46526
PHONE 219-533-3158 • FAX 219-534-2518



October 29, 1991

To Whom It May Concern:

I, Delbert D. Walter, have worked for Goshen Iron and Metal since March, 1953. To the best of my knowledge, I have never dumped waste from Skyline or any other account at the older Himco Landfill site.

I am at the present time a warehouse worker but at the beginning of my employment drove truck for Goshen Iron and Metal. Duties included picking up trash at various accounts and dumping them at the Elkhart County Landfill.


Delbert D. Walter

22176 CR 42
Goshen, Indiana 46526
219-831-2367


DIANA K. HITE
NOTARY PUBLIC STATE OF INDIANA
ELKHART COUNTY
MY COMMISSION EXP. NOV. 15, 1992

EXHIBIT E



INDUSTRIAL SCRAP • WASTE SERVICE •
INDUSTRIAL GASES • WELDING SUPPLIES
409-411 WEST LINCOLN AVE. — GOSHEN, INDIANA 46526
PHONE 219-633-3158 • FAX 219-634-2518



October 29, 1991

To Whom It May Concern:

I, Garry A. Bowlby, have worked for Goshen Iron and Metal since May, 1976. To the best of my knowledge, I have never dumped waste from Skyline or any other account at the older Himco Landfill site.

I am at the present time the dispatcher but before being promoted to this position drove truck for Goshen Iron and Metal. Duties included picking up trash at various accounts and dumping them at the Elkhart County Landfill.


Garry A. Bowlby

822 South 10th Street
Goshen, Indiana 46526
219-633-7094

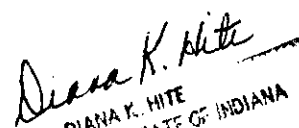

DIANA K. HITE
NOTARY PUBLIC STATE OF INDIANA
ELKHART COUNTY
MY COMMISSION EXPIRES NOV 15, 1992

EXHIBIT F
GOSHEN IRON & METAL, INC.

INDUSTRIAL SCRAP • WASTE SERVICE •
INDUSTRIAL GASES • WELDING SUPPLIES

409-411 WEST LINCOLN AVE. — GOSHEN, INDIANA 46526

PHONE 219-533-3158 • FAX 219-534-2518



October 29, 1991

To Whom It May Concern:

I, Isador Katz, worked for Goshen Iron and Metal since February, 1960. To the best of my knowledge, I have never dispatched a driver to dump waste from Skyline or any other account at the older Himco Landfill site.

I am retired from Goshen Iron and Metal as of December 31, 1987. During my employment with Goshen Iron and Metal, Inc. I was the company's dispatcher responsible for the dispatching of all trucks.


Isadore Katz

3235 Rue Voltaire-Apt 918
South Bend, Indiana 46615
219-234-1380


DIANA K. HITE
NOTARY PUBLIC STATE OF INDIANA
ELKHART COUNTY
MY COMMISSION EXP. NOV. 15, 1992

EXHIBIT G

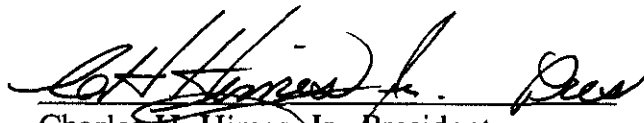
STATE OF INDIANA)
)SS:
COUNTY OF ELKHART)

AFFIDAVIT OF CHARLES H. HIMES, JR.

COMES NOW Charles H. Himes, Jr., and after first being duly sworn upon his oath,
states as follows:

1. That he is a resident of Elkhart County, State of Indiana.
2. That he is currently the President of Himco Waste-Away Services, Inc. which
has its offices located at 707 Wildwood Avenue, Elkhart, Indiana 46514 with telephone
number (219) 293-8534.
3. That he is familiar with the closed landfill site located at the Northwest corner
of the intersection of C.R. 10 and the Nappanee Street extension in Elkhart, Indiana, the
County Road 10 Landfill.
4. That he has reviewed the available records of Chas. Himes & Sons, the former
operator of the County Road 10 Landfill, as well as the records of Himco Waste-Away
Services, Inc., a transporter to the County Road 10 Landfill and based on that review and
his own personal knowledge of the County Road 10 Landfill operations, he does not believe
that Goshen Iron & Metal, Inc. ever transported to or deposited at the County Road 10
Landfill Site any waste materials of any kind and did not ever do business with the County
Road 10 Landfill site in any way at any time.

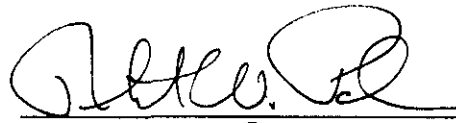
Further, Affiant sayeth not.


Charles H. Himes, Jr., President
of Himco Waste-Away Services, Inc.

STATE OF INDIANA)
)SS:
COUNTY OF ELKHART)

Before me, a Notary Public in and for said County and State personally appeared the above named Charles H. Himes, Jr., President of Himco Waste-Away Services, Inc., and acknowledged the execution of the foregoing Affidavit of Charles H. Himes, Jr. this 3rd day of December, 1991.

WITNESS my hand and notarial seal.



Richard W. Parker, Notary Public
Residing in Elkhart County, Indiana

My Commission Expires:

8-29-93

RWP01789/els

REQUEST FOR INFORMATION

Pursuant to the Freedom of Information Act, Goshen Iron & Metal, Inc., by counsel, requests that the United States Environmental Protection Agency forward to the undersigned any and all information and copies of any and all documents that the United States Environmental Protection Agency has in its possession or that has been reviewed, considered, or otherwise relied upon by the United States Environmental Protection Agency which allegedly makes Goshen Iron & Metal, Inc. a Potentially Responsible Party with respect to the Himco Dump Site located in Elkhart, Indiana or which otherwise allegedly links or connects Goshen Iron & Metal, Inc. to the Himco Dump Site located in Elkhart, Indiana.

YODER, AINLAY, ULMER & BUCKINGHAM
Attorneys for Goshen Iron & Metal,
Inc.

By: Craig M. Buche
Craig M. Buche
130 N. Main, P.O. Box 575
Goshen, Indiana 46526
(219) 533-1171